

**PUBLIC NOTICE
INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION
CITY OF SAN JOSÉ, CALIFORNIA**

Project File Number, Description, and Location

GP03-04-05. General Plan amendment to change the Land Use/Transportation Diagram from Industrial Park to Industrial Park with Mixed Industrial Overlay on a 15.5-acre site located on the west side of Oakland Road, approximately 300 feet north of Schallenberger Road; (Marv Fox, Owner/Applicant). Council District: 4

California State Law requires the City of San José to conduct environmental review for all pending projects that require a public hearing. Environmental review examines the nature and extent of any potentially significant adverse effects on the environment that could occur if a project is approved and implemented. The Director of Planning, Building & Code Enforcement would require the preparation of an Environmental Impact Report if the review concluded that the proposed project could have a significant unavoidable effect on the environment. The California Environmental Quality Act (CEQA) requires this notice to disclose whether any listed toxic sites are present. The project location **does not** contain a listed toxic site.

Based on an initial study, the Director has concluded that the project described above will not have a significant effect on the environment. We have sent this notice to all owners and occupants of property within 1,000 feet of the proposed project to inform them of the Director's intent to adopt a Mitigated Negative Declaration for the proposed project on October 21, 2003 on the General Plan amendment, and to provide an opportunity for public comments on the draft Mitigated Negative Declaration. The public review period for this draft Mitigated Negative Declaration begins on **October 1, 2003** and ends on **October 20, 2003**.

A public hearing on the project described above is tentatively scheduled for November 17 and 19, 2003 at 6:00 p.m. in the City of San Jose Council Chambers, 801 N. First Street, San Jose, CA 95110. The draft Mitigated Negative Declaration, initial study, and reference documents are available for review under the above file number from 9:00 a.m. to 5:00 p.m. Monday through Friday at the City of San Jose Department of Planning, Building & Code Enforcement, City Hall, 801 N. First Street, Room 400, San Jose, CA 95110. The documents are also available at the Dr. Martin Luther King, Jr. Main Library, 150 E. San Fernando Street, San Jose, CA 95112 and the Educational Park Branch Library, 1770 Educational Park Dr., San José, CA 95133, and online at www.ci.san-jose.ca.us/planning/sjplan/eir/mnd2003.htm. Adoption of a Negative Declaration does not constitute approval of the proposed project. The decision to approve or deny the project described above will be made separately as required by City Ordinance. For additional information, please call **Deanna Chow** at (408) 277-8555.

Stephen M. Haase, AICP
Director, Planning, Building and Code Enforcement

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**DRAFT
MITIGATED NEGATIVE DECLARATION**

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

NAME OF PROJECT: Markovitz & Fox General Plan amendment

PROJECT FILE NUMBER: GP03-04-05

PROJECT DESCRIPTION: General Plan land use amendment to change the Land Use/Transportation Diagram from Industrial Park to Industrial Park with Mixed Industrial Overlay on a 15.5-acre site.

PROJECT LOCATION & ASSESSORS PARCEL NO.: West side of Oakland Rd., approximately 300 feet north of Schallenberger Rd.; portion of 237-03-070

COUNCIL DISTRICT: 4

NAME OF APPLICANT: Marv Fox
Fox Properties

MAILING ADDRESS AND PHONE NO. OF APPLICANT CONTACT PERSON:

Erik Schoennauer
The Schoennauer Company
2066 Clarmar Way, Ste. D
San Jose, CA 95128
(408) 947-7774

FINDING

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL

Urban Design Policy No. 1

- The City should continue to apply strong architectural and site design controls on all types of development for the protection and development of neighborhood character and for the proper transition between areas with different types of land uses.

Urban Design Policy No. 22

- Design guidelines adopted by the City Council should be followed in the design of development projects.

Air Quality Policy No. 1

- The City should take into consideration the cumulative air quality impacts from proposed developments and should establish and enforce appropriate land uses and regulations to reduce air pollution consistent with the region's Clean Air Plan and State law.

Riparian Corridors and Upland Wetlands Policy No. 1

- Creeks and natural riparian corridors and upland wetlands should be preserved whenever possible.

Riparian Corridors and Upland Wetlands Policy No. 2

- New public and private development adjacent to riparian corridors should be consistent with the provisions of the Riparian Corridor Policy Study.

Riparian Corridors and Upland Wetlands Policy No. 3

- New development within the Urban Service Area should be set back from the outside edge of riparian habitat (or top of bank, whichever is greater) a distance sufficient to buffer the impacts of adjacent human activities and provide avenues for wildlife dispersal.

Riparian Corridors and Upland Wetlands Policy No. 4

- New development should be designed to protect adjacent riparian corridors from encroachment of lighting, exotic landscaping, noise and toxic substances into the riparian zone.

Riparian Corridors and Upland Wetlands Policy No. 6

- The City encourages appropriate native plant restoration projects along riparian corridors, upland wetlands, and in adjacent upland areas.

Historic, Archaeological and Cultural Resources Policy No. 1

- Because historically or archaeologically significant sites, structures and districts are irreplaceable resources, their preservation should be a key consideration in the development review process.

Historic, Archaeological and Cultural Resources Policy No. 8

- For proposed development sites which have been identified as archaeologically sensitive, the City should require investigation during the planning process in order to determine whether valuable archaeological remains may be affected by the project and should also require that appropriate mitigation measures be incorporated into the project design.

Soil and Geologic Conditions Policy No. 1

- The City should require soils and geologic review of development proposals to assess such hazards as potential seismic hazards, surface ruptures, liquefaction, landsliding,

mudsliding, erosion and sedimentation in order to determine if these hazards can be adequately mitigated.

Soil and Geologic Conditions Policy No. 6

- Development in areas subject to soils and geologic hazards should incorporate adequate mitigation measures.

Earthquakes Policy No. 1

- The City should require that all new buildings be designed and constructed to resist stresses produced by earthquakes.

Hazards Policy No. 1

- Development should only be permitted in those areas where potential danger to the health, safety, and welfare of the residents of the community can be mitigated to an acceptable level.

Hazardous Materials Policy No. 1

- The City should require proper storage and disposal of hazardous materials to prevent leakage, potential explosions, fires, or the escape of harmful gases, and to prevent individually innocuous materials from combining to form hazardous substances, especially at the time of disposal.

Hazardous Materials Policy No. 3

- The City should incorporate soil and groundwater contamination analysis within the environmental review process for development proposals. When contamination is present on a site, the City should report this information to the appropriate agencies that regulate the cleanup of toxic contamination.

Water Resources Policy No. 12

- For all new discretionary development permits for projects incorporating large paved areas or other hard surfaces (e.g., building roofs), or major expansion of a building or use, the City should require specific construction and post-construction measures to control the quantity and improve the water quality of urban runoff.

Noise Policy No. 1

- The City's acceptable noise level objectives are 55 DNL as the long-range exterior noise quality level, 60 DNL as the short-range exterior noise quality level, 45 DNL as the interior noise quality level, and 76 DNL as the maximum exterior noise level necessary to avoid significant adverse health effects. These objectives are established for the City, recognizing that the attainment of exterior noise quality levels in the environs of the San Jose International Airport, the Downtown Core Area, and along major roadways may not be achieved in the time frame of this Plan. To achieve the noise objectives, the City should require appropriate site and building design, building construction and noise attenuation techniques in new residential development.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **October 20, 2003**, any person may:

- (1) Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or
- (2) Submit written comments regarding the information, analysis, and mitigation measures in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND; or
- (3) File a formal written protest of the determination that the project would not have a significant effect on the environment. This formal protest must be filed in the Department of Planning, Building and Code Enforcement, 801 North First Street, San Jose, Room 400 and include a \$100 filing fee. The written protest should make a "fair argument" based on substantial evidence that the project will have one or more significant effects on the environment. If a valid written protest is filed with the Director of Planning, Building & Code Enforcement within the noticed public review period, the Director may (1) adopt the Mitigated Negative Declaration and set a noticed public hearing on the protest before the Planning Commission, (2) require the project applicant to prepare an environmental impact report and refund the filing fee to the protestant, or (3) require the Draft MND to be revised and undergo additional noticed public review, and refund the filing fee to the protestant.

Stephen M. Haase, AICP
Director, Planning, Building and Code Enforcement

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Adopted on: _____

Deputy